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GEORGE H. GERSTMAN
SEYFARTH SHAW FAIRWEATHER & GERALDSON
55 EAST MONROE STREET
42nd FLOOR
CHICAGO, IL 60603-5803

EXAMINER	
BROCKETTI, JULIE K	
ART UNIT	**PAPER NUMBER**
3713	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/659,955	Applicant(s) LEMAY ET AL.	
	Examiner Julie K Brocketti	Art Unit 3713	

-- Th MAILING DATE of this communication appears on the cover sh et with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 September 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6,7,23-25 and 27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6,7,23-25 and 27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 22, 2003 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pease et al., U.S. Patent No. 5,326,104 in view of Bridgeman et al., U.S. Patent No. 5,984,779. Pease et al. discloses a method for configuring a paytable for a gaming terminal. The gaming terminal has a microprocessor, which controls game play on the gaming terminal. The microprocessor is coupled to a memory, a display device and at least one input device (See Pease

Figs. 2 & 3). The gaming terminal receives identification information from a gaming operator. The identification information is compared with authorized identities to verify that the gaming operator is authorized to access the paytables of the gaming terminal (See Pease col. 19 lines 41-48; col. 24 lines 24-27col. 26 lines 43-55). The gaming machine receives information from a gaming operator, using an input device, for defining at least at part of the first paytable. Thereby modifying the stored paytable in order to define the new paytable. The information for defining at least a first paytable comprises information for defining the magnitude of a monetary prize in the absence of an ability of the first user to define or change a prize win frequency. The gaming machine then calculates a first overall payback percentage and all possible game outcomes and prizes associated with each possible game outcome for the first paytable using the microprocessor (See Pease col. 26 lines 15-18, 32-42). The results of the calculations are compared to predetermined gaming criteria and a message is output if the results fail to comply with the criteria (See Pease col. 19 lines 49-57; col. 20 lines 1-13). For example, when a paytable is changed, the calculation results include a checksum and if the checksums do not match an error message is displayed. However, if the calculation results comply with the criteria then the paytable is stored in memory (See Pease col. 26 lines 32-42). Pease lacks in disclosing displaying information from a stored paytable different from the first paytable.

Bridgeman et al. teaches of a gaming machine in which multiple paytables are stored. The display device displays information from a stored paytable, which is different from the other paytables and has a second overall payback percentage, which is different from the first overall payback percentage of the other paytables (See Bridgeman Figs. 4-7; col. 7 lines 25-40; col. 9 lines 15-31; col. 12 lines 41-49; col. 21 lines 20-67; col. 22 lines 1-7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to display information from a second stored paytable in the invention of Pease et al. By displaying a different paytable, the gaming operator can see what the payouts for the stored paytable are and can then adjust the new paytable to be different than what is already preset in the gaming machine. Therefore, the gaming operator can adjust the values to gain the overall payback percentage that they want.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pease et al. in view of Bridgeman in further view of Walker, U.S. Patent No. 6,068,552. Pease lacks in suggesting a modification to the paytable when the results fail to comply with the criteria. In Walker et al. after a user customizes a parameter, calculations to determine all other parameters are performed and the user must approve the new parameters before use. If a user inputs an invalid parameter, the calculation section will modify this parameter with a new suggested limit (See Walker et al. col. 9 lines 20-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to

suggest a modification to the paytable when the results fail to comply with the criteria. It is well known throughout the art that when something is wrong, suggestions on how to correct the situation can be made in order to get the task accomplished.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pease et al. in view of Bridgeman in further view of "Regulation 14" of the Nevada Gaming Statutes. Pease discloses inputting information into a gaming terminal indicative of a paytable change by a gaming operator. It is obvious that the new paytable is prevented from being used until all information is input into the gaming terminal confirming regulatory approval of the first paytable. It is well known throughout the art that every gaming terminal paytable requires approval from a regulatory agency (See "Regulation 14"). The Examiner notes that the date on the submitted Regulation 14 is August 2000; however, many of the statues listed under the regulation have dates prior to Applicant's priority date. Furthermore, it is well known to anyone skilled in the art that regulatory approval for gaming machines existed prior to Applicant's priority date. A person skilled in the art would first gain regulatory approval for any paytable they use or else they would be breaking the law. It is obvious that the gaming operator would want to prevent use of the paytable change until information is input to the gaming terminal confirming regulatory approval. One skilled in the art would know that a command could be inserted into the game program to prevent game play until regulatory approval was met.

Consequently, it is obvious to implement the concept of gaining regulatory approval into any gaming machine. If regulatory approval is not granted for various aspects of the gaming machine, paytables, payback percentages, etc. the operator would be breaking the law and be subject to punishment.

Claims 23-25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pease et al. in view of "Regulation 14" of the Nevada Gaming Statutes. Pease discloses inputting information into a gaming terminal indicative of a paytable change by a gaming operator. The paytable change includes a change in overall payback percentage (See Pease col. 26 lines 32-42). It is obvious that the new paytable is prevented from being used until all calculations are performed, thereby gaining regulatory approval and user approval since every gaming terminal paytable requires approval from a regulatory agency. It is obvious that once an operator customizes a paytable, the paytable must undergo regulatory approval. Consequently, if regulatory approval is granted then the newly changed paytable may be used (See "Regulation 14"). The Examiner notes that the date on the submitted Regulation 14 is August 2000; however, many of the statues listed under the regulation have dates prior to Applicant's priority date. Furthermore, it is well known to anyone skilled in the art that regulatory approval for gaming machines existed prior to Applicant's priority date. It is obvious that one could gain this approval electronically by transmitting the game related information to a remote computer of a gaming regulatory agency and then

having the regulatory agency analyze the game for regulatory compliance and then transmit the approval of the paytable information back to the gaming terminal. However, the claim language is not limited to electronic approval. The step of transmitting from the gaming terminal to a remote computer of a regulatory agency can easily be interpreted as a person hand carrying the new paytable to the regulatory agency and then inputting the data to a remote computer of a regulatory agency. Nevertheless, transmitting data electronically is well known throughout the art. A person skilled in the art would first gain regulatory approval for any paytable they use or else they would be breaking the law. Furthermore, it is well known throughout the gaming art that the regulatory authority either approves of changes to the gaming machines or fails to indicate regulatory compliance. It is also obvious that the gaming operator would want to prevent use of the paytable change until information is input to the gaming terminal confirming regulatory approval. This can be accomplished through turning off the machine or placing a chain around the machine, all of which are well known throughout the art to prevent player access to the gaming terminal. It would also have been obvious for the regulatory authority to suggest modifications that would place the game in compliance with the regulations. It is well known throughout the art that when something is wrong, suggestions on how to correct the situation can be made. Consequently, it is obvious to implement the concept of gaining regulatory approval into any gaming machine. If regulatory approval is not granted for various aspects of

the gaming machine, paytables, payback percentages, etc. the operator would be breaking the law and be subject to punishment.

Response to Amendment

It has been noted that claims 1, 6, 7 and 23 have been amended. Claims 5, 8-22 and 26 have been cancelled. New claim 27 has been added.

Response to Arguments

Applicant's arguments with respect to claims 1-4, 6 and 7 have been considered but are moot in view of the new ground(s) of rejection.

The Examiner agrees with the Applicant that in Walker, the overall payback percentage stays the same and that it is the player making the paytable changes not the gaming operator. Consequently, these rejections have been dropped and a new rejection has been written.

The Applicant argues that even though it is true that newly customized paytables should not be used until all the calculations are performed normally there is nothing actively, physically preventing such use. Consequently, accidentally use of unauthorized, illegal paytables may occur. The Examiner disagrees and notes that it is common practice to turn off the machines or chain them up to prevent their use by players. A gaming operator would clearly take all precautions necessary to prevent an illegal activity occurring within their premises. No gaming operator would allow himself or herself to be

subject to punishment for not obeying the laws concerning gaming regulations. The Examiner further notes that claim 23 is a method claim and the method steps including the transmission of information can be done physically by hand and does not have to be done electronically.

Citation of Relevant Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Xidos et al., U.S. Patent No. 5,851,149.

   --Xidos et al. discloses a distribution gaming system in which the games are subject to jurisdictional requirements.

2. Acres, U.S. Patent No. 6,254,483 B1.

   --Acres discloses a gaming method in which the payback percentage may be changed by implementing a new pay table at the machine.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Brocketti whose telephone number is 703-308-7306. The examiner can normally be reached on M-Th 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg SPE can be reached on 703-308-1327.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-306-5648.

Julie Brocketti
Examiner
Art Unit 3713
October 10, 2003